

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JESSIE ANDREW HOPPER, JR.,

Petitioner,

vs.

No. CV 20-0589 KG/JHR
No. CR 14-2130 KG/JHR

UNITED STATES OF AMERICA,

Respondent.


ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION
AND GRANTING MOTION TO VACATE

This matter is before the Court on the Honorable Jerry H. Ritter's Proposed Findings and Recommended Disposition (PFRD) (CV Doc. 6), filed October 26, 2020. In the PFRD, Judge Ritter recommended that the Court grant Petitioner Jessie Hopper's Motion to Vacate under 28 U.S.C. § 2255 (CV Doc. 1) and dismiss Count 3 of the Superseding Indictment. (CV Doc. 6) at 3-4. Judge Ritter also recommended that the Court resentence Mr. Hopper without considering Count 3. *Id.* The United States concedes that this relief is proper. (CV Doc. 5) at 5.

Having reviewed the parties' briefing and the relevant law, the Court adopts Judge Ritter's PFRD (CV Doc. 6). Accordingly, the Court grants Mr. Hopper's Motion to Vacate (CV Doc. 1) and dismisses Count 3 of the Superseding Indictment. In granting Mr. Hopper the relief requested in his Motion (CV Doc. 1), the Court denies his request to appoint counsel.

The Court will set this matter for resentencing. The Court will appoint Mr. Hopper counsel for resentencing and will order the submission of an updated presentence report. Finally, in viewing the United States' consent to grant Mr. Hopper's Motion, the Court enters this Order without the need to wait for the close of the objection period.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE